

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA

JINKS, DANIEL & CROW, P.C., §

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Plaintiff, §

v. §

COMMUNITY BANK AND TRUST
OF SOUTHEAST ALABAMA, and
UNITED STATES DEPARTMENT
OF TREASURY, INTERNAL
REVENUE SERVICE, §

CASE NUMBER:

2:05cv940-T

Defendants. §

COMPLAINT FOR INTERPLEADER AND DECLARATORY JUDGMENT

COMES NOW Plaintiff Jinks, Daniel & Crow, P.C. (hereinafter "Law Firm"), and for its Complaint for Interpleader and Declaratory Judgment states as follows:

JURISDICTION

1. This is a Complaint seeking Interpleader and a Declaratory Judgment determining a question of actual controversy among the parties, as is more fully set forth herein.
2. This cause of action is brought pursuant to 11 U.S.C. , §§ 1335, 1397, 2201, 2202, 2361.
3. Law Firm is a professional corporation, licensed along with its attorneys, to operate its law practice in Union Springs, Bullock County, Alabama.

Alabama (hereinafter "CB&T") is a banking corporation with principal offices located in Alabama, qualified to do business in the state of Alabama.

5. Defendant United States Treasury Department and Defendant Internal Revenue Service (hereinafter collectively referred to as "IRS") are United States governmental agencies and/or entities.

FACTS

6. Law Firm represented Ben T. Adams (hereinafter, "Mr. Adams"), a resident of Clio, Barbour County Alabama, in a lawsuit styled Ben T. Adams v. Charter Construction Management Company, Case number CV2003-24, Circuit Court of Barbour County, Alabama.
7. During the pendency of this lawsuit, Mr. Adams and Charter Construction Management Company entered into a settlement agreement.
8. After all expenses, costs and attorney fees were paid from the settlement agreement amount, the amount of \$56,438.97 remains as settlement proceeds (hereinafter "settlement proceeds") and is presently held in the Law Firm's Trust Account.
9. Subsequent to the settlement of the Barbour County lawsuit, Defendant CB&T contacted the Law Firm, claiming a perfected security interest in the remaining settlement proceeds, in an amount which exceeds \$273,000.00.

10. CB&T asserts that their claim of an interest in the settlement proceeds is based upon their agreement with Mr. Adams to assign his interest in the settlement proceeds to CB&T. CB&T claims that it has a perfected security interest in the settlement proceeds by virtue of its filings of a UCC-1 and a UCC-3.
11. Defendant IRS claims that Mr. Adams owed federal taxes, and that Notices of Levy and Federal Tax Liens were placed against Mr. Adams' property; therefore, the IRS claims it has a federal tax lien on Mr. Adams' settlement proceeds, in a total amount which exceeds \$47,000.00.
12. Because of these conflicting claims advanced by CB&T and IRS, the Law Firm is in doubt as to which of these Defendants is entitled to be paid from the settlement proceeds and how said proceeds should be disbursed.

WHEREFORE, THE PREMISES CONSIDERED, Plaintiff requests the following:

- A. That this Court take jurisdiction of this Complaint for Interpleader and Declaratory Judgment and declare the rights and obligations of the parties with respect to the aforesaid settlement proceeds;
- B. That each of the Defendants be restrained from instituting any action against Plaintiff for the recovery of the settlement proceeds until this

Court has determined the extent, if any, of the parties' claims against said settlement proceeds, and the priority of said claims;

- C. That prior to the determination of whether either Defendant is entitled to the settlement proceeds, this Court enter an order permitting the Law Firm to interplead the settlement proceeds;
- D. That the Law Firm shall be entitled to recover costs, expenses and reasonable attorney fees for this cause of action; and
- E. Such other, further or different relief to which the Law Firm may be entitled.

THIS the 30th day of September, 2005.



Janie S. Gilliland GIL034

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